

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant : Schulzrinne et al.  
Serial No. : 09/980,885                      Group Art Unit: 2144  
Filed : March 22, 2002                      Examiner: Kang, Paul H  
Title: NETWORK TELEPHONY APPLIANCE AND SYSTEM FOR  
INTER/INTRANET TELEPHONY

**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

I hereby certify that this paper is being electronically filed with the United States Patent Office.

7/23/2007  
Date of Deposit

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BOX AF  
Assistant Commissioner for Patents  
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Alexandria, VA 22313-1450

Dear Sir:

Applicants respectfully request review of the final rejection of the claims in the above-identified application, and present the following Remarks for consideration. A Notice of Appeal is being filed with this request.

### **REMARKS**

In the Office Action, claims 1-9 and 30 were finally rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,654,261 to Gudjonsson et al. (“Gudjonsson”). Claims 11-19 and 21 were finally rejected under 35 U.S.C. § 103(a) as being unpatentable over Gudjonsson in view of U.S. Patent No. 6,842,505 to Suder et al. (“Suder”). Claims 10, 20, and 22-29 were finally rejected under 35 U.S.C. § 103(a) as being unpatentable over Gudjonsson and Suder further in view of U.S. Patent No. 6,608,832 to Forslow et al. (“Forslow”). Applicant respectfully traverses the rejections of record, and further submits that claims 1-30 are in condition for allowance. Accordingly, Applicant requests that the rejections of record be withdrawn.

#### **Independent Claims 1 and 30 - Rejections under 35 U.S.C. § 102**

Claims 1-9 and 30 were finally rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by Gudjonsson. “A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” MPEP § 2131 (citing *Verdegall Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987)). “The identical invention must be shown in as complete detail as is contained in the ... claim” and “the elements must be arranged as required by the claim.” MPEP § 2131 (citing *Richardson v. Suzuki Motor Co.* 868 F.2d 1226, 1236 (Fed. Cir. 1989) and *In re Bond*, 910 F.2d 831 (Fed. Cir. 1990)). “Under the principles of inherency, if the prior art necessarily functions in accordance with, or includes, the claimed limitations, it anticipates.” *Mehl/Biophile Int’l Corp. v. Milgram*, 192 F.3d 1362 (Fed. Cir. 1999). Importantly, “[t]he mere fact that a certain thing may result from a given set of circumstances is insufficient to prove anticipation.” *Electro Med. Sys., S.A. v. Cooper Life Sciences, Inc.*, 34 F.3d 1048 (Fed. Cir. 1994).

Applicant’s independent claim 1 is directed to a network appliance for providing packetized

data over a packet data network. Among other things, independent claim 1 includes a network controller subsystem coupled to the packet data network, a digital signal processing subsystem coupled to the network controller subsystem, the digital signal processing subsystem including a computer program for detecting incoming calls and initiating call sessions, a signal conversion subsystem coupled to the digital signal processing subsystem, and a user interface subsystem coupled to both the signal conversion subsystem and the digital signal processing subsystem.

Gudjonsson does not disclose or suggest each element of claim 1, and does not disclose or suggest the arrangement of elements of claim 1, and therefore Gudjonsson cannot anticipate claim 1. (*See* MPEP §2131; *Richardson* 868 F.2d at 1236; *In re Bond*, 910 F.2d at 831.) Instead, Gudjonsson describes a network wherein multiple, separate appliances on a network are used to provide services to users. (*See* Gudjonsson, abstract). Specifically, Gudjonsson describes a system that includes a plurality of clusters of servers used to provide a number of services that users and their clients (*e.g.*, a PC, mobile phone, and/or PDA) can connect to and access. (*See* Gudjonsson, col. 8, lines 10-21). A system where a variety of network devices are used in combination to provide services to users is not the same as the network appliance of claim 1, which provides “packetized data” over a packet data network.

Additionally, claim 1 recites, “a digital signal processing subsystem coupled to said network controller subsystem, the digital signal processing subsystem further comprising a computer program for detecting incoming calls and initiating call sessions.” (emphasis added). The Examiner takes the position that digital signal processors are inherent in the computing devices described by Gudjonsson and that they anticipate the digital signal processor recited in claim 1. (*See* Office Action, page 10). Assuming *arguendo* that a digital signal processor is inherent in these devices, Gudjonsson does not disclose or suggest a “digital signal processing subsystem

further comprising a computer program for detecting incoming calls and initiating call sessions” as recited in claim 1. The Examiner mistakenly cites Gudjonsson col. 8, lines 3-6 and col. 8, line 67 - col. 9, line 60 as disclosing this element. Instead, Gudjonsson describes, “a function of the system/network is to provide the possibility for users 7 to establish arbitrary communications sessions with other users 7. Different types (e.g., voice or text) of communication may be established in different embodiments.” Even assuming, *arguendo*, that Gudjonsson inherently discloses a digital signal processor allegedly coupled to the computing devices described in Gudjonsson, that is not the same thing as a computer program for detecting incoming calls and initiating call sessions. To the contrary, such a digital signal processor would connect to clusters of the system/network which are then used to establish communication sessions.

Thus, contrary to the allegations in the Office Action, Gudjonsson does not disclose or suggest a “digital signal processing subsystem further comprising a computer program for detecting incoming calls and initiating call sessions.” Accordingly, claim 1 is not anticipated by and is patentable over Gudjonsson, for at least these reasons.

Applicant’s independent claim 30 is directed to a packet data network system. Among other things, independent claim 30 includes at least one data network appliance for receiving and generating packetized data that includes the same elements of independent claim 1. Applicant’s independent claim 30 is therefore allowable for at least the reasons provided with respect to independent claim 1.

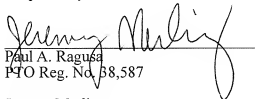
**Dependent Claims 2-29**

Since claim 1 is allowable, claims 2-29 depending therefrom are also allowable for at least the same reasons as claim 1. Therefore, for brevity, Applicant does not address the other cited references here, but reserves the right to do so in future proceedings.

**CONCLUSION**

Applicant submits that the present application is now in condition for allowance and such action is earnestly requested. Applicant requests that the Examiners contact the undersigned for telephonic discussion to quickly resolve any outstanding issues and to bring this prosecution to a close.

Respectfully submitted,



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